



## UNITED STATES DEPARTMENT OF COMMERCE

## Patent and Trademark Office

Address: BOX INTERFERENCE

COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

Filed by: Judge Richard E. Schafer

Telephone: (703) 308-9797

Facsimile: (703) 305-0942

MAILED

JAN 10 2001

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Patentee: SOUTHERN

Application No.: 08/925,676, now Patent No.  
6,054,270, granted 04/25/00

Filed: 09/09/97

For: ANALYSING POLYNUCLEOTIDE  
SEQUENCES

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,658.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

RICHARD E. SCHAFER

Administrative Patent Judge

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 1

Filed by: Richard E. Schafer  
Administrative Patent Judge  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed:  
10 January 2001

**MAILED**

UNITED STATES PATENT AND TRADEMARK OFFICE

**JAN 10 2001**

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

STEPHEN P.A. FODOR, LUBERT STRYER,  
J. LEIGHTON READ and MICHAEL C. PIRRUNG,

Junior Party,  
(Application 09/063,933),

v.

EDWIN SOUTHERN,

Senior Party,  
(Patent 6,054,270).

Patent Interference No. 104,658

**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Richard E. Schafer has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for **2:00 p.m. on March 6, 2001** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

Junior Party

Named inventors:       STEPHEN P.A. FODOR, Palo Alto, CA  
                              LUBERT STRYER, Stanford, CA  
                              J. LEIGHTON READ, Palo Alto, CA  
                              MICHAEL C. PIRRUNG, Durham, N.C.

Application:             09/063,933, filed 21 April 1998

Title:                    Very large scale immobilized  
                              polymer synthesis

Assignee:                AFFYMETRIX, Inc.

Accorded Benefit:       None

Attorneys:               See last page

Address:                 See last page

Senior Party

Named Inventors: EDWIN SOUTHERN, Oxford, Great Britain

Patent: 6,054,270, granted 25 April 2000, based on  
Application 08/925,676, filed 9 September 1997

Title: Analysing polynucleotide sequences

Assignee: Oxford Gene Technology Limited

Accorded Benefit: None

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

Claim 9 of U.S. Patent 6,054,270 or Claim 102 of Fodor Application 09/063,933.

The claims of the parties are:

Fodor: 97-107

Southern: 1-12

The claims of the parties which correspond to Count 1 are:

Fodor: 102, 103 and 106

Southern: 9-11

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Fodor: 97-101, 104, 105 and 107

Southern: 1-8 and 12

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See § 18 of the  
STANDING ORDER.

Paper \_\_\_\_<sup>1</sup>

Filed on behalf of [name of party]

By: Name of lead counsel, Esq.  
Name of backup counsel, Esq.  
Street address  
City, State, and Zip-Code  
Tel:  
Fax:

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Richard E. Schafer)**

**STEPHEN P.A. FODOR, LUBERT STRYER,  
J. LEIGHTON READ and MICHAEL C. PIRRUNG,**

**Junior Party,  
(Application 09/063,933),**

**v.**

**EDWIN SOUTHERN,**

**Senior Party,  
(Patent 6,054,270).**

**Patent Interference No. 104,658**

**TITLE OF PAPER**

<sup>1</sup> Leave a blank line because the board assigns the paper number.

**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1. § 7: date for identifying lead and backup counsel.
2. § 8: date for identifying any real party in interest.
3. § 9: date for requesting copies of involved and benefit applications and patents.
4. § 17: date for filing list of proposed preliminary motions.
5. § 19: date for accomplishing certain discovery.
6. § 20: date for filing clean copy of claims.
7. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. § 33: date for objecting to admissibility of evidence.
10. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. § 35: dates when cross-examination can take place.
12. § 45: dates for taking action with respect to settlement discussions



**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference 104,658

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

---


---

---

---

Telephone, including area code: \_\_\_\_\_

**Part J. Signature of administrative patent judge**

  
RICHARD E. SCHAFER  
Administrative Patent Judge

Date: 1/10/01  
Arlington, VA

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference (ORDERTE6)

PTO Form 850

Copy U.S. Patent 6,054,270

Copy of claims of Application 09/063,933

DECLARE.007

Revised September 20, 2000  
(replaces DECLARE.006.1)

cc (via Federal Express):

Attorney for FODOR (real party of interest:  
AFFYMETRIX, INC.):

Paul Kokulis  
PILSBURY MADISON  
1100 New York Avenue, N.W.  
9th Floor East Tower  
Washington, D.C. 20005-3918

Attorney for SOUTHERN (real party of interest:  
Oxford Gene Technology Limited):

WENDEROTH, LIND & PONACK  
2033 K Street, N.W.  
Suite 800  
Washington, D.C. 20006